

SUBCOMMITTEE NO. 2

Agenda

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Room 112

PART 2

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3360 Energy Resources Conservation & Development Commission

The commission, commonly referred to as the California Energy Commission (CEC), is responsible for:

- Siting power plants,
- Conducting energy-related research and development,
- Forecasting energy supply and demand, and
- Implementing conservation strategies.

As displayed in Table 1, the budget proposes expenditures of about \$247 million, a reduction of \$148 million (37 percent) relative to the current year.

The commission also expects to have loan repayments of \$3.6 million, up from \$2.9 million in the current year.

Table 1
California Energy Commission
Expenditures by Program
2002-03
(dollars in thousands)

	2000-01	2001-02	2002-03	Amount	Percent
Regulatory and Planning	\$35,155	\$35,638	\$30,059	-\$5,579	-16%
Energy Resources Conservation	265,579	145,957	24,752	-121,205	-83%
Development	306,678	213,356	192,413	-20,943	-10%
Totals	\$607,412	\$394,951	\$247,224	-\$147,727	-37%

As displayed in Table 2, the commission is funded by a combination of special fund revenues, reimbursements and General Fund revenues. Specifically:

- *Special funds account* for about \$227 million (94 percent) of the commission's budget.
- *Reimbursements account* for over \$10 million (about 4 percent) of the total.
- *The General Fund accounts* for nearly \$6 million (about 2 percent) of the CEC's budget. General Fund revenues are allocated to the commission's siting and transportation programs.

Analyst says special fund revenues are underestimated. As displayed in Table 2, the commission is almost exclusively funded with special fund revenue. The Energy Resources Program Account (ERPA) fund provides nearly 20 percent of the commission's budget. The

Table 2
California Energy Commission, Funding Sources
2002-03
(dollars in thousands)

	Amount	Percent
General Fund	\$5,722	2%
Renewable Resource Trust Fund	93,800	38%
Public Interest Research, Development & Demo. Program Fund	71,515	29%
Energy Resources Programs Account	40,550	17%
Other Special Funds	25,317	10%
Reimbursements	10,320	4%
Total	\$2437,224	

ERPA charge is set at \$.0002 per kilowatt-hour of electricity consumed and generates \$45 million per year. (Current law specifies a floor of \$.0001 per kilowatt-hour.) The Board of Equalization administratively increased the charge to its current level of \$.0002 per kilowatt-hour. The fee was last raised on July 1, 1983. The commission estimates that the average residential customer pays \$1.27 per year for the charge.

The revenue estimates for ERPA funds are based on the commission's forecast for electricity usage. When it put the budget together, the CEC estimated that taxable electricity usage would remain at current-year levels. The Analyst's office believes that energy use will rise by between 2 percent and 4 percent. For purposes of budget planning, it suggests assuming that ERPA revenues will rise by 2 percent (an increase of \$900,000). The Analyst's estimate accounts for the likely impact of conservation measures.

Commission response. The CEC staff acknowledge that electricity consumption in California is expected to grow more moderately in calendar year 2002 than was anticipated in January. However, it identifies two reasons for maintaining existing funding:

- *Revenue Volatility Makes Any Forecast Suspect.* Given the changing electricity market, it is hard for the CEC to be confident in its short-term electricity forecast. Many factors could influence usage. For example, according to the commission, the California Power Authority recently announced its goal to offset all growth in electricity demand through additional energy conservation measures. Additional energy conservation measures could undermine the LAO's proposed increase in revenues.
- *The CEC Wants a Higher Reserve than Proposed by the Governor.* According to the CEC, "If revenues are higher than the Governor's Budget projection, then they should be maintained in the fund to provide a prudent reserve (as opposed to offsetting General Funds)... The Governor's Budget proposes only a \$929,000 or 2.1% reserve next fiscal year. If revenues increase 2 percent, the additional \$900,000 could be added to the reserve providing a \$1,829 balance or 4 percent reserve."

Budget Issues

1. General Fund Support for Siting

The commission must approve the siting of most power plant facilities. The number of applications received by the commission can vary significantly from year to year. For example, the commission received 10 and 36 applications in the last two years, respectively. It expects to receive 15 for the year ending June 30, 2002. In the budget year, the commission assumes it will receive 10 applications.

The commission expects to spend about \$19 million on siting issues in the budget year. Most of these costs are financed with special fund money. The budget appropriates \$5.7 million from the General Fund. The Legislature could use the \$900,000 in additional special fund revenues identified by the Analyst (see discussion above) to reduce this General Fund appropriation to \$4.8 million.

Under current law, the CEC:

- Levies a fee on Notices of Intention (NOI). The fee is on all persons applying for certification of a thermal power site or facility, and is set at one-cent per kilowatt of net electric capacity. The CEC has not received any NOI filings in many years and does not anticipate receiving any in the near future.
- May seek cost reimbursement for its actual CEQA-related costs from applicants who file for a Small Power Plant Exemption (SPPE). It does not anticipate receiving any SPPE filings in the near future.

The Governor proposes to repeal the existing fee structure for NOIs and impose a flat fee of \$25,000 for each application for certification of a site or related facility. The budget assumes revenues of \$250,000 from the new fee structure. The revised fees would finance about one percent of the total cost of the siting and compliance monitoring program.

The Analyst recommends that generators or ratepayers bear the full cost of the siting program, rather than the General Fund. To back out the General Fund, the LAO recommends raising the application fee on generators, or increasing the per-kilowatt charge levied on all electricity consumers.

In evaluating this recommendation, the subcommittee may wish to consider the volatility in the number of applications. If the Legislature shifted costs of the siting program to the applicants and one applicant delayed until July 2003, the commission would face a half-million dollar deficiency in its budget.

Staff recommend that the subcommittee: (1) eliminate the General Fund appropriation for siting, (2) adopt language authorizing an increase in the ERPA surcharge sufficient to replace the General Fund revenue in 2002-03, and (3) authorize the commission to raise the ERPA rate each November to fund their programs up to \$.0003 per kilowatt-hour. This action would be *in lieu* of the Governor's proposal to impose the \$25,000 fee.

Draft Trailer Bill Language**Amend Revenue and Taxation Code §40016 as follows:**

40016. (a) A surcharge is imposed on the consumption in this state of electrical energy purchased from an electric utility on and after January 1, ~~1975~~ 2003, at a rate of up to ~~one-tenth~~ three-tenths mill (~~\$0.0001~~) (\$0.0003) per kilowatt-hour pursuant to subdivision (b).

(b) ~~On and after July 1, 1983, the~~ *The commission shall set the rate at a public meeting each November for the calendar year starting the following January. If the commission fails to set the rate in any November, the surcharge shall continue at the rate in effect during that November. Under no circumstances may the rate exceed three-tenths (\$0.0003) per kilowatt-hour.*

2. Supplemental Report Language

The recommendation above would raise the commission's reliance on ERPA revenues to nearly one-fifth of the commission's entire budget. The LAO is concerned that increasing the commission's reliance on ERPA will increase CEC's vulnerability to budget shortfalls due to revenue shortfalls. While ERPA's revenue base is fairly stable, it has exhibited some volatility in recent years. To moderate this volatility, the LAO suggests that the Legislature consider in the future a supplemental revenue source for the commission, such as a fee on generators. For example, a regulatory fee could be assessed on new applications to build power plants in the state. Alternatively, ongoing regulatory fees could be assessed to cover the costs of the commission's compliance-monitoring activities.

The Legislative Analyst recommends that the Legislature request a study be done on a specific way to charge: (a) developers seeking approval to site power plants in California, and (b) generators for the ongoing costs associated with compliance.

Proposed Supplemental Report Language**3360-001-xxxx--Fee Structures**

a) No later than December 1, 2002, the Commission shall report to the chairs of the fiscal committees in both houses on alternative fee structures for imposing fees on: (a) developers seeking approval for site power plants, and (b) generators for the ongoing costs associated with compliance. The report shall detail the following for each alternative:

- Fee structures, including information on proposed fees, fee base and annual revenues.
- Ease of administration and compliance.
- Cost of administration and compliance.
- Predictability of revenues.
- Recommendation for which fee alternative is preferable.

The analysis provided in the report shall sustain a thorough review.

b) The Legislative Analyst shall review the report required in (a). It shall report its findings and recommendations in *The 2003-04 Analysis of the Budget*.

8660 Public Utilities Commission

The commission regulates privately owned utilities, such as gas, electric, telephone and railroad interests. It regulates some passenger and household goods carriers. The commission's primary objective is ensure adequate facilities and services for the public at equitable and reasonable rates.

Table 1
Public Utilities Commission, Expenditures by Program
2000-01 to 2003-03
(dollars in thousands)

	2000-01	2001-02	2002-03	Amt Change	Percent
Regulation of Utilities	\$105,165	\$392,544	\$206,940	-\$185,604	-47%
Universal Service Telephone Programs		1,234,968	1,091,726	-143,242	-12%
Regulation of Transportation	12,981	15,034	14,565	-469	-3%
Totals	\$118,146	\$1,642,546	\$1,313,231	-\$329,315	-20%

Consent Issues

Staff recommend adoption of two consent items:

1. Finance Letter Regarding the Pacific Gas and Electric (PG&E) Bankruptcy – Retaining Financial Consultants

In 2001, PG&E filed for bankruptcy. The PUC is participating in the Chapter 11 proceeding, at the request of the Governor and the Attorney General. The bankruptcy judge gave the commission permission to file a detailed term sheet for alternative reorganization. The commission had successfully argued that PG&E's proposed bankruptcy plan would have removed from state oversight important assets needed for the generation and transmission of energy. As a result, the commission expects to need additional specialized advice.

In 2001-02, the commission retained services for this case at a cost of about \$6.9 million. It expects to continue the consultants' contract through January 2003 at a monthly rate of \$250,000. The budget requests funding for these seven months and \$35,000 for travel associated with the bankruptcy proceedings for a total cost of \$1.8 million from the budget year.

No opposition has been identified.

2. Require a Report on the Commission's Payphone Programs

The PUC's Consumer Services Division administers three payphone programs: (1) the Public Policy Payphone Program places payphones in areas that would otherwise not be served; (2) the Payphone Service Providers Enforcement Program ensures payphones are in working order; and (3) the Telecommunications Devices for the Deaf Interim Placement Committee ensures the hearing impaired have access to communications devices in public places. In order to help the

Legislature assess the effectiveness of these programs, the Analyst recommends that the Legislature adopt the following supplemental report language:

Proposed Supplemental Report Language

Item 8660-001-0491—Payphone Program

On or before December 1, 2003 the California Public Utilities Commission shall submit, to the Chairs of the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature, a report that justifies its staffing needs for its public payphone programs based on actual workload data. In addition to the staffing levels of each program, this report should include the following information:

- 1) ***Public Policy Payphone Program.*** The number of applications received for new public policy payphones, the number of public policy payphones placed in California, the location of the public policy payphones, and the number of hours spent on each application and payphone placement case.
- 2) ***Payphone Service Providers Enforcement.*** The number of payphones inspected, the percentage of total phones inspected, the number of payphones not in compliance, the number of payphones disconnected, and the number of hours spent on each inspection and compliance case.
- 3) ***Telecommunications Devices for the Deaf Interim Placement Committee.*** The number of phones placed, the number of applications/requests for the placement of these phones, and the number of hours spent on each phone placement case.

Staff are not aware of any opposition.

Budget Issues

1. Reduce Funding for the “Green Team”

The budget proposes \$100,000 for funding a staff attorney dedicated to activities associated with the Green Team. The position is funded from special funds and is limited-term. The Analyst believes that the workload associated with the Green Team does not warrant additional staff. The commission staff indicate that although the Green Team’s workload may not warrant additional staff, the PUC’s overall legal workload has increased so significantly that it needs at least another attorney. The commission staff will provide detail to the subcommittee.

Staff recommend deletion of the position and funding, pending receipt of the commission’s justification.

2. Office of Ratepayer Advocates (ORA)

Statute establishes the Office of Ratepayer Advocates (ORA), an independent consumer advocate, within the PUC. Current law requires that the office be “separately identified in the commission’s annual budget request.” Although the *Governor’s Budget* document details the office under its Program Element, the ORA appropriation is subsumed in the Regulation of Utilities program.

Commission staff advise that ORA has never had a separate appropriation and that it would be very difficult and costly for the commission to identify the various distributed costs of ORA.

Staff recommend adopting trailer bill language to repeal the statutory requirement that the commission be separately identified in the commission's budget.

3. Finance Letter Regarding Implementation of AB 140

AB 140 (Strom-Martin, Chapter 903, Statutes of 2001) establishes a grant program to develop rural telecommunications infrastructure. The bill provides that grants can be provided only if there are no "current" claims against the B fund. On May 3, the commission reported it had claims pending in excess of \$81 million.

The commission may distribute the grants to community-based groups, provided that the community is low-income and lacks telecommunications service. The commission has identified 23 qualified small unserved rural communities.

In addition, under the terms of the bill:

- *The program may be financed* from the High Cost Fund-A and/or High Cost Fund-B. Total program costs may not exceed \$10 million per year. The High Cost Fund-A is funded by a surcharge on all telecommunications customers.
- *Proposals for grants must include* a preliminary engineering feasibility study, topographical maps, cost projections, project schedules, and letters of recommendations from local public entities. No one recipient may receive more than 25 percent of the available grant funding. A local agency must act as the fiscal agent for the recipient.
- *The commission must establish criteria* for evaluating grant requests.

Timeline for Making Grants. The commission must establish the application process over the next year, as there is no existing program at the commission. It expects to seek input from the targeted areas and adopt an application procedure in 2002. It could then solicit applications in early 2003. If the commission acts on a timely basis and applications are distributed by January, completed applications will be due in March 2003. It is not clear whether the commission can meet this timeline. If the commission delays distributing the applications, then the March due date for the completed applications will be delayed.

It is also not clear—once the applications are returned—how long it will take commission staff to review the applications and make recommendations to the commission for action. If the applications are complex and highly technical, the review will take longer. The commission staff does not expect to begin awarding grants until mid-2003.

The Finance Letter requests an appropriation from the High Cost Fund-A for \$243,000 for three staff and \$10 million for grants.

The commission staff have not provided any justification for the three staff beyond general descriptions of the workload. No justification has been provided for the specific work and staffing proposal. More significantly, there is no basis for estimating the need for the \$10 million appropriation. The commission's application criteria and process will not be finalized for at least

six months. Based on the available information, there is no way to predict what types of projects will be funded or estimate whether the \$10 million will be fully subscribed in the budget year.

Because the grants will not be awarded until the summer of 2003, it appears that this appropriation can be deferred until the 2003-04 budget without significantly affecting programs, if at all. By next year at this time, the commission will have a much greater understanding of the likely pool of applicants and cost of the grant awards. If the grants are deferred for a year, it is not clear to what extent the commission needs additional staff in 2003-04.

Will the \$10 Million Evaporate If It Isn't Spent by June 30, 2003? Commission staff note that AB 140 caps the amount of the appropriation for each year at \$10 million. They indicate that while the timeline may be ambitious, the commission hopes to encumber the \$10 million, even if it is unable to cut all the checks by June 30, 2003. By encumbering the \$10 million, the \$10 million would be available for allocation in 2003-04 together with a \$10 million appropriation made in the 2003-04 budget.

Staff recommendation. Although the authorizing legislation imposes a cap, AB 140 does not prohibit the Legislature from appropriating above the cap in future budgets. The Legislature could appropriate \$20 million—or more—in the next year for the grants, depending on the demonstrated need. It is premature to make the appropriation until the commission resolves the pending claims against the B fund, explains the criteria it will adopt, and details the likely awards. Consequently, staff recommend that the subcommittee (a) Deny the appropriation for the grants and the staff, and (b) Direct the commission to report on its resolution of the pending claims, progress in assessing the needs of the rural communities, development of the application process, and estimates of the likely grants awards.

Proposed Supplemental Report Language

Item 8660-001-462— Rural Grants Program

The California Public Utilities Commission shall submit, to the chairs of the fiscal committees of both houses of the Legislature, the following:

- 1) On or before January 15, 2003:
 - a) The commission's approved grant criteria and application form.
 - b) The commission's assessment of the need for the grants and the types of projects it expects to fund with the grants.
 - c) An analysis of the likely benefits and costs of the grants.

The assessment and analysis required in paragraphs (b) and (c) shall provide sufficient information to sustain a thorough review.

- 2) On or before April 1, 2003:
 - a) An inventory of the applications filed with commission.
 - b) A description of the types of projects for which the applications request funding.
 - c) An update of the assessment provided in paragraph (b) required in (1) above. If the assessment changes, the commission shall describe the basis for the differences.

The required inventory, description and update shall provide sufficient information to sustain a thorough review.

8665 California Consumer Power and Conservation Financing Authority (CPA)

The California Power Authority (CPA), its powers and responsibilities are detailed in §§3300 through 3384 of the Public Utilities Code. Specifically, the code:

- 1) Authorizes the board to contract for personnel and exempts the board from all applicable provisions of the Government and Public Contract Codes (§3340).
- 2) Authorizes the CPA to finance the following with revenue bonds:
 - The construction of generation facilities (§3350 and §3351),
 - Loans for the purchase of equipment, improvements, and appliances with energy efficiency or renewable energy characteristics (§3365 through §3367.5),
- 3) Requires the CPA's operating budget be included in the annual Budget Act (§3345).
- 4) Requires the CPA to submit to the Budget Committee an annual report on its activities and expenditures (§3346). The report is due January 1.
- 5) Requires the CPA to report on its plan for financing resources investments (§3369). The report, entitled *Clean Growth: Clean Energy for California's Economic Future*, was submitted on February 15, 2002.

Last year, the Legislature authorized a \$10 million "start up" loan for the CPA. In the current year, the Administration allocated \$4.5 million to the CPA. The budget proposes allocating the balance. The loan is to be repaid from proceeds of bonds.

Table 1
Comparison of Budget Allocation
California Power Authority
(dollars in thousands)

	<u>2001-02</u> (partial year)	<u>2002-03</u> (full year)	<u>Difference</u>
Personnel (see Table 2 for detail)	\$1,095	\$2,812	\$1,718
Other Contracts and Consultants	2,708	1,566	-1142
Other Operating Expenses & Equipment			
Training	8	13	5
Moving Costs		200	200
Furniture	40	51	11
Rent	60	210	150
PCs	184	90	-94
Travel	20	40	20
Worker's Comp	307	35	-272
Independent Auditors		50	50
Other Operating Expenses	5	160	155
Staff Benefits	98	356	258
Salary Savings	<u>-23</u>	<u>-83</u>	<u>-60</u>
Totals	\$4,502	\$5,498	\$996

Changes in the Budget. The budget proposes an increase of about \$1 million from the current year. Contracted services and associated workers' compensation costs went down by \$1.4 million while the authority's personnel costs (including staff benefits) would increase by \$2 million for a net increase of about \$500,000 for personnel and contracts. In addition, the authority will move at a one-time cost of \$200,000. Rent and other operating expenses will increase by a total of about \$300,000. Table 1 displays the growth in the budget.

Table 2 compares the 2001-02 personnel budget with the proposed 2002-03 budget. The current-year expenditures are shown as partial year (for the actual amount of time the staff served the authority), the number of months served and the annualized cost of the position. Comparing the annualized budget against the budget proposal, the budget would increase by about \$600,000. These costs would be attributed primarily to increasing the authority's technical and support staff.

It is nearly impossible to evaluate the adequacy of the proposed budget for the following reasons:

- Though the board has identified likely workload, it has no workload standards or measures for justifying the specific allocations contemplated within its budget. In time, it will develop those standards as it comes to a better sense of its responsibilities.
- The authority's 2001-02 budget is not predictive: It was the authority's start-up year, so there were many one-time and partial-year costs. Navigant, a private energy consulting firm, was hired to staff the authority in its initial stages. Navigant has not been retained for the budget year, and has been replaced by contract and in-house employees.
- The authority has no comparable "model" in

Table 2 Comparison of Current- & Budget-Year Expenditures -- Personnel California Power Authority (dollars in thousands)				
	2001-02			2002-03
	Partial	# of Months	Annualized	
<i>Board</i>				
Board Chair	\$202	11	\$220	\$220
Board Members	8	11	9	9
Special Assistant	35.4	10	42	48
<i>Executive</i>				
CEO	160	9	213	200
Executive Assistant	9	2	54	43
<i>Chief Deputy Director</i>				
Chief Dep Director	21	2	126	115
Special Assistant	35	8	53	37
Assistant Director				86
Staff Services Manager				63
Office Manager				34
<i>General Counsel</i>				
General Counsel	102	7	175	165
Staff Counsel	30	3	120	120
Staff Counsel				96
Legal Support Super				50
Legal Typist				38
<i>Communications</i>				
Deputy Director	65	6	130	105
Assistant Director	68	8	102	88
Office Tech				34
<i>Facilities Development</i>				
Deputy Director	47	2	282	115
Associate Planner				171
Sr Electrical Engineer	43	10	52	74
Planner				62
<i>Conservation & Distributed Energy</i>				
Deputy Director	100	8	150	160
Assistant Director	101	10	121	143
Specialist III	30	3	120	151
Specialist I				62
Executive Assistant	9	3	36	43
<i>Financing & Investment</i>				
Chief Financial Officer	30	2	180	165
Asst CFO				81
Office Tech				34
Totals	\$1,095		\$2,185	\$2,812

state government, except possibly the California Housing Financing Authority (CHFA). Specifically:

- a) The authority intends to be “financially self-supporting” so it functions as an enterprise entity.
- b) It has been granted broad authority to contract for personnel. As a consequence, its salaries reflect private-sector compensation and are much higher than the salaries of comparable staff at the financing authorities within the Treasurer’s Office.

Budget Issues

1. Loan

According to the authority’s report, *Clean Growth: Clean Energy for California’s Economic Future*, the authority expects to repay the General Fund the entire \$10 million loan by June 30, 2003. The CPA expected to generate at least \$10 million in revenue, predominately from financing renewable energy projects.

On May 6, CPA staff informed legislative staff that it has revised its estimate of revenue for the budget year. Because of changes in the renewable energy market, the CPA now expects to generate significantly less than the \$10 million in the budget year. It now appears that the loans will be fully repaid in 2004-05.

The authority expects to repay a portion (perhaps \$1 million) of the 2001-02 loan in the budget year.

Staff recommend that the committee schedule a repayment of \$1 million in the budget.

2. Contract Authority

The authority’s governing statute authorizes the board to contract for staff. In particular, it exempts the authority from the personnel policies adopted by the Department of Personnel Administration. Apparently, this exemption was intended to allow the authority to compete for specialized personnel.

Staff recommend that this exemption be deleted in a trailer bill.

3. Budget Reduction

With a reduced level of activity, the authority no longer expects to need the full amount budgeted for personnel and contracts. The Analyst recommends reducing the CPA’s budget to \$4 million, but makes no recommendation about how the \$4 million should be allocated within the authority’s budget.

Staff recommend: (a) adopting the LAO’s recommendation, and (b) requesting that the authority provide to the committee by May 13 a schedule for allocating the \$4 million.

4. Supplemental Report Language

Staff recommend adoption of the following supplemental report language to help the Legislature monitor activities at the department and provide budget oversight.

Proposed Supplemental Report Language

- 1) The authority shall, by December 15, 2002 and March 15, 2003, submit to the chairs of the budget committees of both houses a report on the following:
 - a) Details on the revenue cash flow of the authority.
 - b) The use of contract services.
 - c) The projects that have been financed by the authority.

The reports shall provide sufficient detail to sustain a thorough analysis of the findings.

- 2) The authority shall, by December 31, 2002, submit to the chairs of the budget committees of both houses a report on the long-term budgetary needs of the authority. In the report, the authority shall recommend measures for evaluating the performance of the authority. The report shall answer the question: How can the Legislature determine whether the authority is over- or under-funded?

8770 Electricity Oversight Board (EOB)

The budget proposes appropriations of \$4.2 million for the Electricity Oversight Board (EOB), about \$260,000 less than the current year.

Proposed Spending. The board proposes to spend \$1.6 million (39 percent) of its budget on salaries and wages and \$430,000 (11 percent) on benefits. The balance, \$2.2 million (50 percent), is proposed for Operating Expenses and Equipment (OE&E). Please see Graph 1.

Funding Sources. Most of the board is funded from special funds, as detailed in Table 1 below. The budget proposes a General Fund appropriation of \$730,00 for the implementation of a new program authorized by SB 28x regarding generation maintenance.

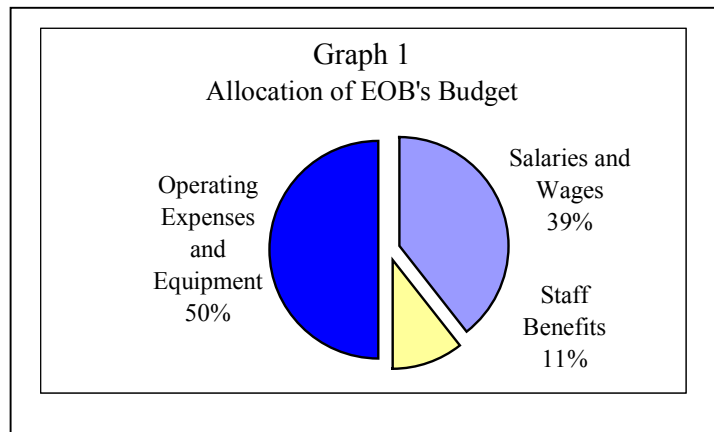


Table 1
Energy Oversight Board by Funding Sources
(dollars in thousands)

Funding Source	2000-01	2001-02	2002-03	\$ Change	% Change
General Fund	233	\$997	\$730	-\$267	-27%
PUC Utilities Reimbursement Account	\$1,797	3,012	3,017	5	0%
Energy Resources Programs Account	491	437	473	36	8%
Reimbursements		35		-35	-100%
Totals	\$2,521	\$4,481	\$4,220	-\$261	59%

Statute gives the EOB oversight responsibilities for the operations of the Independent System Operator (ISO) and the Power Exchange (PX), and the other duties listed in Table 2. In January 2001, the PX suspended operation of its markets and is now in bankruptcy. Because of the demise of the PX, according to the EOB, "the board does not oversee the administration of these markets any longer." The continuing responsibilities, according to the board, are as follows:

The EOB staff continue to review and analyze the operation of the electric grid, electric markets operated by the ISO, efforts to revise the market and the rules for using the grid, the market

behavior of bulk market participants and groups, the rapidly changing rules and standards ...of the FERC, and regional structures likely to affect public interests of this state. The EOB staff, in coordination with several other agencies and the Governor's office, acts as advocate and litigant on behalf of the State's public interests in cases before the FERC and in federal appeals and several regional forums.

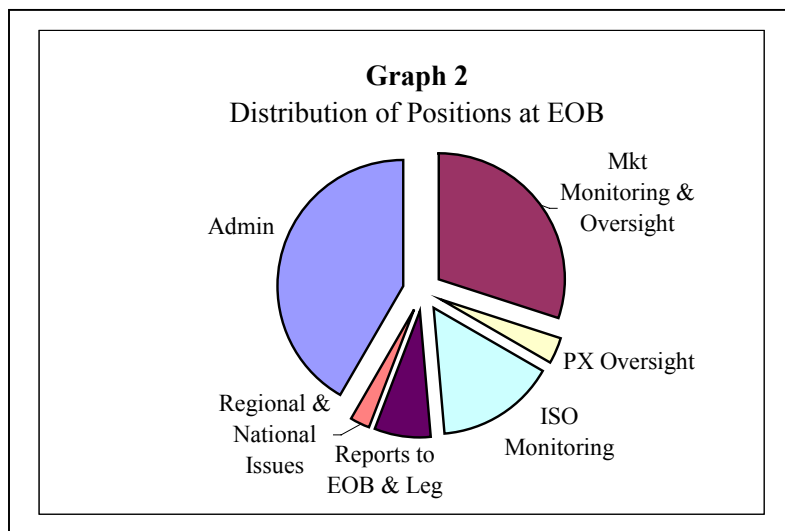
Table 2
Statutory Responsibilities of the EOB

The board's statutory duties are listed in §335 of the Public Utilities Code:

- To oversee the Independent System Operator and the Power Exchange.
- To determine the composition and terms of the governing board of the Power Exchange.
- To serve as an appeal board for majority decisions of the Independent System Operator governing board as they relate to matters subject to exclusive state jurisdiction, as specified.
- To investigate any matter related to the wholesale market for electricity to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the availability of electric transmission and generation and related costs, during periods of peak demand.

How Does the Board's Budget Align with Its Statutory Duties? On April 12, 2002, the subcommittee chair requested that the board match the statutory responsibilities of the board with the staff activities. Such a matching would help the committee assess the workload and staffing of the board. Rather than align the staff assignments with the board's statutory responsibilities, the board staff responded by saying that "[t]he current staff work of the EOB is fully within the EOB's statutory authorization."

The board staff has identified workload for 28 positions and assigned administrative, oversight and monitoring tasks to these positions. Of the positions, nearly 12 (42 percent) are assigned to administrative tasks. Eight (30 percent) are assigned to market monitoring and oversight. Four monitor the ISO. Graph 2 displays the allocation of the positions.



Although board staff detailed the assignments of the staff, it was unable to provide workload measures or performance standards to justify any of the work assigned to the positions. The board provided no data that would help the committee assess whether the 28 positions are

sufficient to complete the board's statutory responsibilities work. Nor could the committee assess whether staff are assigned to the highest priority tasks.

Can the Board Be Eliminated? The board staff are responsible for monitoring developments in the wholesale market and federal regulatory environment. The board also monitors grid reliability and the state's interests at the FERC. While these responsibilities could possibly be shifted to another entity and be done more cheaply, there is currently no proposal before the committee which can be evaluated as an alternative to the *status quo*.

The Analyst believes it is premature to eliminate the board, pending a resolution on the ISO governance issues. Specifically, the Analyst wrote the chair on May 6, 2002:

...it appears unlikely that FERC will approve the Governor-appointed ISO governing board. If this ISO board is eventually replaced with a stakeholder board or some other governing board, the state may have little influence over the ISO's decisions regarding rules and market operations. Therefore, it will be important that an entity monitor and represent the state's interests regarding ISO rules and market operations. Thus, even if the EOB is deleted, it seems that a number of its current activities merit continuation— at least until the electricity market's future design characteristics become clearer. ...This suggests it may be premature to abolish the EOB at this time and prudent to retain its current structure for the time being.

Budget Issues

1. Generation Maintenance Program

The board has one program financed by the General Fund, the generation maintenance program. Because SB 39xx (Burton, Chapter 19, Statutes of 2002) shifted this program to the PUC, the board's General Fund appropriation for the program can be eliminated.

Staff recommend deleting the funding and positions associated with generation maintenance program.

2. Reduce Funding To Account for Vacancies

The Legislative Analyst identifies six vacant positions at the board, including the executive director position and recommends that the subcommittee consider eliminating the vacant positions for a savings of \$400,000.

Staff recommend the board report back by May 13 on the likelihood of filling the vacant positions in the budget year.

3. Report on Pending Actions

The board represents the state in certain federal regulatory proceedings.

Staff recommend that the board report to the subcommittee and policy chair on the or before August 1 on the following inventory:

- a. How many appeals or cases is the staff working on through December 31, 2002?
- b. How long will it take for the board staff to resolve these cases?
- c. What are the staff responsibilities for each of these cases?
- d. What is the board's staffing commitment to each of these cases?

4. OE&E Budget Seems High

Most state budgets do not allocate as much as half their budgets to operating and equipment expenses. It is not clear why the OE&E expenses are so high.

On April 12, 2002, the subcommittee chair sent a letter requesting that the board justify the appropriations in the budget, asking "Given the changing nature of the EOB's responsibilities...on what basis has the EOB staff determined that \$4.3 million budget is appropriate?" The board's response discussed personnel needs and the board's activities generally. It did not provide any justification for the \$2.1 million associated with the OE&E budget.

According to the Analyst, approximately \$600,000 of the OE&E budget is associated with contracts for data processing and expert witnesses. The board should outline its intended use of the OE&E funds (including funds for contracts) so that the Legislature can evaluate the nature of these costs. Undoubtedly, the board can account for its intended expenses. Pending some accounting and justification, however, the Legislature cannot be expected to approve the board's OE&E budget.

Staff recommend deleting the funding for OE&E, pending receipt of details on the use of the funding. Perhaps the board can provide the detail prior to the subcommittee's final hearing on May 17.

5. Aligning Statutory Duties and Budget

It is not clear how the staff assignments outlined in Graph 2 are necessary and consistent with the statutory duties listed in Table 2.

Staff recommend directing the board to report on its workload and provide performance measures.

Proposed Supplemental Report Language

The board shall, by December 31, 2002, submit to the chairs of the budget committees of both houses a report on the long-term budgetary needs of the board. In the report, the board shall recommend measures for

evaluating the performance of the authority. The report shall include but not be limited to the following:

1. The report shall answer the following questions:
 - a) How can the Legislature determine whether the authority is over- or under-funded? What outcomes or benefits can be weighed against the board's costs?
 - b) How do the staff activities relate to the board's statutory responsibilities?
2. The report shall identify the board's budgetary needs for 2003-04 associated with the following activities:
 - a) Lead agency in a coalition of parties pursuing state refund claims.
 - b) Board-filed complaints against the standards for market rates at the FERC.
 - c) Board contributions to adjudicated outcomes.
 - d) Board-filed actions to prohibit a series of selling practices.
 - e) Technical support provided other agencies.